

Peter R. Bloeme et al.
Serial No. 09/902,037
Filing Date: July 10, 2001

REMARKS

The Examiner and her supervisor, Mr. Ackun, are thanked for discussing this patent application with the inventors Mr. Bloeme and Mr. Perry and with their representative, Mr. Sutcliffe. This Amendment is being filed in response to that interview and in response to the Final Rejection mailed on November 8, 2002. Reexamination and reconsideration are respectfully requested.

I. The objection to the specification should be withdrawn.

The Examiner objected to the specification for allegedly failing to provide proper antecedent basis for first and second gripping surfaces formed of "irregular surfaces." The gripping surfaces are shown in Figure 2 and described throughout the specification as having a low profile frictional surface and presenting a texture. For instance, pages 4 and 11 referred to these gripping surfaces as frictional surfaces and pages 5 and 9 refer to the texture of the gripping surfaces. It is therefore clear from the description combined with the drawings that the gripping surfaces present irregular surfaces. If the Examiner still objects to this language, the Examiner is respectfully requested to consider new claims 21 to 24 which refers to the gripping surfaces as having raised surfaces, texture, and forming surface discontinuities. All of these claims have support in the original specification.

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The Examiner also objected to the specification for allegedly not providing support for a flight plate and transition area having a thickness greater than 0.90 inches. The Examiner's attention is directed to page 6 which states that "the thickness of the flight plate 16 and transition area 14 is 0.093 inches." Since this dimension is greater than 0.090 inches, the objection to the specification should be withdrawn.

II. The claims comply with 35 U.S.C. § 112, first paragraph.

The Examiner rejected claim 1 under 35 U.S.C. § 112, first paragraph, as not containing subject matter described in a way as to reasonably convey to one skilled in the art that the inventors had possession of the invention. The basis for this rejection was the inclusion of the language "irregular surfaces" in claim 1. As mentioned above, the specification does provide support for gripping surfaces having irregular surfaces. One skilled in the art would realize that the gripping surfaces form frictional surfaces by presenting irregular surfaces. The rejection of claim 1 should therefore be withdrawn.

III. The claims are novel over Mitchell.

The Examiner rejected claims 1 to 6 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,906,007 to Mitchell. The Examiner believed Mitchell to disclose all features of the claimed flying disc, including the annular rim, flight plate, transition area, and the first and second gripping surfaces. During the interview, the Examiner argued that any

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surface can be considered a "gripping surface" if it can be grasped and also argued that the transition area could be interpreted to extend into an area of the annular section 10 that incorporates the lower spoilers 26.

The inventors and their representative disagreed with the Examiner's interpretation of Mitchell. Nonetheless, to avoid such an interpretation of Mitchell, the claims have been amended to clarify that the gripping surfaces are formed along the sloped surface of the transition area. The Examiner took the view that the surfaces of curvature 17 within Mitchell correspond to the claimed transition area. As should now be clear, Mitchell does not disclose any disc having gripping surface on both a top side and an underside of the disc "along the sloped surface." Mitchell therefore does not anticipate the claimed invention.

Mitchell fails to anticipate other features of the claimed invention. The gripping surface in claim 1 are described as having "irregular surfaces." This language was added for the sole purpose of removing the Examiner's prior belief that any surface can be considered a gripping surface, conceivably even a smooth glass surface. The gripping surfaces are described as having a low profile and are staggered, segmented, and uni-directional. Claim 2 states that the gripping surfaces are "segmented raised surfaces," claim 3 specifies "staggered raised surfaces," claim 4 describes the gripping surfaces as "uni-directional," claim 5 states that they are "segmented, staggered, and uni-directional," and claim 6 states that the surfaces "have uni-directional surfaces to present a greater frictional force to movement along the disc in a radial direction than to movement along the disc in a tangential

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direction." Even if the Examiner could consider a smooth surface as a "gripping surface," the surfaces of curvature 17 in Mitchell or other such surfaces are not segmented, are not staggered, and are not uni-directional. Mitchell does not anticipate the subject matter of claims 2 to 6.

IV. The claims are non-obvious over Mitchell.

The Examiner rejected claims 7 to 16 under 35 U.S.C. § 103 as being unpatentable over Mitchell. In rejecting claims 7 to 9 and also claim 10, the Examiner argued that the claimed inventions would have been obvious "for the purpose of making the devices easier to play with." In rejecting claims 11 to 16, the Examiner argued that it would have been obvious to have provided uni-directional gripping surfaces "in order to give the device a different look."

The disc with the dimensions set forth in claim 10 would not have been obvious in light of Mitchell. The discs according to claims 10 to 16 are well suited for canine use since it presents a relatively low profile and has an increased thickness along the flight plate and transition area which provides a more durable structure to dogs for catching. The disc is relatively smaller than conventional canine discs which makes it more suitable for use by smaller dogs. The gripping surfaces have a low profile and are designed not to accumulate dirt and other debris which is a common problem with conventional canine discs. Despite having a low profile, the gripping surfaces offer improved frictional surfaces and are located

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on both the upper side and underside of the disc. Additional details concerning a preferred embodiment of the disc can be found at www.hyperflite.com. The combination of all of these features would not have been suggested by Mitchell to one of ordinary skill in the art.

Mitchell fails to provide any motivation for arriving at the claimed invention. Mitchell does not provide any suggestion that the claimed dimensions would have been obvious in order to make the disc easier to play with, as suggested by the Examiner. In fact, one of ordinary skill in the art would likely have made the disc larger since a larger disc would be more easily caught than a smaller disc. Further, the gripping surfaces "present a greater frictional force to movement along the disc in a radial direction than to movement along the disc in a tangential direction" (claim 16). The gripping surfaces are not added for ornamental reasons in order to give the disc a different look. Mitchell provides no suggestion of providing uni-directional gripping surfaces to present frictional surfaces to the user. The rejection of claims 7 to 16 should therefore be withdrawn.

As discussed during the telephonic interview, Mr. Bloeme and Mr. Perry have years of experience in competing with flying discs and the accomplishments include winning the Junior, National, World, and Canine championships. Mr. Bloeme is the only person to have won the World Championship twice – once by himself and once with his dog Wizard. The disc invented by Mr. Bloeme and Mr. Perry was thus the culmination of knowledge accumulated over their combined careers. Additional information about the inventors can be found both at the www.hyperflite.com link mentioned above and also at

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www.skyhoundz.com. Mr. Bloeme and Mr. Perry would be pleased to file Affidavits as secondary considerations for non-obviousness if the Examiner remains unconvinced about the non-obvious features of the claimed disc.

V. CONCLUSION

For at least the above reasons, claims 1 to 16 and new claims 17 to 24 are allowable. If the Examiner does not intend to issue a Notice of Allowance, the Examiner is respectfully requested to contact the undersigned attorney in order to resolve any remaining matters.

Please charge any additional fees or credit any overpayment to Deposit Account No. 11-0855.

Respectfully submitted,


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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In accordance with 37 CFR 1.121(b), the following replacement paragraphs show all the changes made by the foregoing amendment relative to the previous version of the paragraphs.

1. (Twice Amended) A disc for being thrown in the air, comprising:
 - an annular rim formed along an outer periphery of the disc;
 - a flight plate formed in a central portion of the disc;
 - a transition area joining the annular rim to the flight plate and presenting a sloped surface between the annular rim and the flight plate;
 - a first gripping surface formed of irregular surfaces [in at least a first portion] along the sloped surface of the transition area on [an upper] a top side of the disc; and
 - a second gripping surface formed of irregular surfaces [in at least a second portion] along the sloped surface of the transition area on [a lower side] an underside of the disc;
- wherein the first and second gripping surfaces are positioned within the transition area on the top side and underside, respectively, to provide frictional surfaces to a person throwing the disc.